

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

NuStar Energy Services, Inc.,	§	
<i>Plaintiff,</i>	§	
versus	§	Civil Action No. 4:14-cv-03282
	§	(Admiralty)
M/V Norwegian Jewel, IMO No. 9304045,	§	
her engines, apparel, furniture, equipment,	§	
appurtenances, tackle, etc., <i>in rem</i> ;	§	
<i>Defendant.</i>	§	

UNOPPOSED MOTION TO DISMISS ING BANK N.V.

NOW INTO COURT, through undersigned counsel, comes interpleader-defendant ING Bank N.V., as Security Agent (“ING”). With the consent of all other parties, namely plaintiff NuStar Energy Services, Inc. (“NuStar”), Norwegian Jewel Ltd., as claimant to the *in rem* defendant M/V NORWEGIAN JEWEL, and interpleader-defendant O.W. Bunker USA, Inc. (“O.W. USA”), ING moves according to Rule 41(a)(2) for an Order dismissing ING with prejudice, for the following reasons:

1. Pursuant to the *Debtors’ First Modified Liquidation Plans* of O.W. USA, O.W. Bunker North America Inc., and O.W. Bunker Holding North America Inc., dated November 18, 2015 (the “Liquidation Plans”), which plans were confirmed by the Order of the U.S. Bankruptcy Court for the District of Connecticut dated December 15, 2015 (*see doc. 1279 in 14-bk-51720 (Bankr. D. Conn.)*), ING assigned to the OWB USA Liquidating Trust (as defined in the Liquidation Plans) all of ING’s interests in the receivables arising from the transaction underlying this action.

2. In light of this assignment, ING now disclaims any interest in the property that is the subject of this action, including without limitation ING’s claims against the vessel M/V NORWEGIAN JEWEL *in rem*, Norwegian Jewel Ltd. *in personam*, or against any funds

deposited with the Court or in escrow standing as security for claims against the vessel, all relating to the bunkers delivered to the M/V NORWEGIAN JEWEL on or about October 11, 2014, and October 25, 2014, as set forth in NuStar's Original Verified Complaint (doc. 1).

3. ING reserves all of its rights as a Liquidating Trust Beneficiary (as defined in the Liquidation Plans) and as a Beneficiary (as defined in the Liquidating Trust Agreements of O.W. USA and O.W. Bunker North America Inc., dated January 4, 2016).

4. ING notes that its dismissal will have the effect of mooting NuStar's unjust enrichment cross-claim, which was predicated on an award of funds to ING, as well as ING's pending Motion to Dismiss NuStar's Unjust Enrichment Cross-Claim (doc. 99).

5. Dismissal of ING will not affect the current docket call (Nov. 18, 2016, doc. 103) and related pretrial deadlines.

WHEREFORE, the premises considered, ING Bank moves with the consent of all parties for an Order dismissing ING with prejudice, with each party to bear its own costs.

Respectfully submitted,

s/ David B. Sharpe
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was sent on the 4th day of August, 2016 to all counsel of record by the Electronic Case Filing System of the United States District Court for the Southern District of Texas.

s/ David B. Sharpe
David B. Sharpe